



News

David Schultz Analyzes in ARM Compliance Digest: Judge Grants MTD in FCRA Case Over Dispute Investigation

October 5, 2020

In the October 5, 2020 edition of the *ARM Compliance Digest*, Hinshaw partner David Schultz reviewed a recent federal district court decision in Illinois granted a defendant's motion to dismiss after it was sued for allegedly violating the Fair Credit Reporting Act by not investigating and removing inaccurate information from the plaintiff's credit report:

Soyinka v Equifax is one of numerous recent filings against the big three credit reporting agencies that address whether a dispute is "factual" and requires an investigation or if it is "legal" and thus is not something the bureaus reasonably can investigate. The trend in these cases is to reject the consumer's claims that the bureaus violated the FCRA. *Soyinka* joins the trend in dismissing the claims.

Soyinka claimed that a debt buyer supposedly did not own her debt, which it had reported to the bureaus. This seems to be common claim in these recent cases. The debt remained on her report despite the dispute. She then sued, claiming Equifax undertook an unreasonable investigation into the tradeline in violation of §§ 1681e(b) and 1681i(a). Section 1681e (b) directs agencies to follow reasonable procedures to assure maximum possible accuracy in the reports. § 1681i(a) requires the agency to conduct a reasonable reinvestigation.

The judge in *Soyinka* stated that to avoid dismissal of such a claim, the consumer must identify a straightforward dispute that the reporting agency failed to resolve or investigate. In dismissing the case, the court relied on Court of Appeal precedents that hold the terms "accuracy" and "inaccurate" in those provisions refer only to factual errors, not to legal defenses to the debt. Plaintiff's claim that the debt buyer did not own the debt asserted a legal defense to the debt and the bureaus could not be expected to conduct such an analysis.

Hopefully *Soyinka* will help put an end to this recent trend of FCRA cases.

[Read the October 5, 2020 edition of AccountsRecovery.net Compliance Digest.](#)

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